

(d) *Economic feasibility* means the capability of an entry to provide an economic return to the settler sufficient to provide a viable farm enterprise and assure continued use of the land for farming purposes. Factors considered in determining feasibility may include the cost of developing or acquiring water, land reclamation costs, land treatment costs, the cost of construction or acquisition of a habitable residence, acquisition of farm equipment, fencing and other costs associated with a farm enterprise, such as water delivery, seed, planting, fertilization, harvest, etc.

(e) *Grant contract* means the contract between a State and the United States which sets the terms and conditions which the State or its assignees shall comply with before lands shall be patented.

(f) *Irrigation* means the application of water to the land for the purpose of growing crops.

(g) *Ordinary agricultural crops* means any agricultural product to which the land under consideration is generally adapted, and which would return a fair reward for the expense of producing them. Ordinary agricultural crops do not include forest products, but may include orchards and other plants which cannot be grown on the land without irrigation and from which a profitable crop may be harvested.

(h) *Reclamation* means the establishment of works for conducting water in adequate volume and quantity to the land so as to render it available for distribution when needed for irrigation and cultivation.

(i) *Segregation* means the action under the Act of August 19, 1894 (39 Stat. 422), as amended (43 U.S.C. 641), by which the lands are reserved from the public domain and closed to application or entry under the public land laws, including location under the mining laws.

(j) *Smallest legal subdivision* means a quarter quarter section (40 acres).

#### § 2610.0-7 Background.

The Carey Act authorizes the Secretary of the Interior, with the approval of the President, to contract and agree to grant and patent to States, in which there are desert lands,

not exceeding 1 million acres of such lands to each State, as the State may cause to be reclaimed. The State shall also cause not less than 20 acres of each 160 acre tract to be cultivated by actual settlers. A number of amendments allowed additional acreages for certain States. Colorado, Nevada and Wyoming were allowed up to 2 million acres. Idaho was allowed up to 3 million acres.

#### § 2610.0-8 Lands subject to application.

(a) The lands shall be unreclaimed desert lands capable of producing ordinary agricultural crops by irrigation.

(b) The lands shall be nonmineral, except that lands withdrawn, classified or valuable for coal, phosphate, nitrate, potash, sodium, sulphur, oil, gas or asphaltic minerals may be applied for subject to a reservation of such deposit, as explained in subpart 2093 of this title.

(c) Lands embraced in mineral permits of leases, or in applications for such permits or leases, or classified, withdrawn or reported as valuable for any leasable mineral, or lying within the geologic structure of a field are subject to the provisions of §§ 2093.0-3 through 2093.0-7 of this title.

(d) A project or individual entry may consist of 2 or more noncontiguous parcels. However, noncontiguous lands should be in a pattern compact enough to be managed as an efficient, economic unit.

### Subpart 2611—Segregation Under the Carey Act: Procedures

#### § 2611.1 Applications.

##### § 2611.1-1 Applications for determination of suitability and availability of lands.

The first step in obtaining segregation of lands for Carey Act development shall be the filing of an application in the appropriate State office of the Bureau of Land Management requesting that the authorized officer make a determination regarding the suitability and availability of lands for a Carey Act Project. The application shall consist of a map of lands proposed to be reclaimed, containing sufficient

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detail to clearly show which lands are included in the Project, the mode of irrigation and the source of water. The map shall bear a certification by the State official authorized to file the application that the lands are applied for subject to the provisions of subpart 2093 of this title.

### **§ 2611.1-2 Determination of suitability and availability of lands.**

The authorized officer shall evaluate the suitability and availability of the lands for agricultural development under the Carey Act utilizing the criteria and procedures in part 2400 of this title.

### **§ 2611.1-3 Application for grant contract.**

If it is determined that lands are suitable and available for agricultural development under the Carey Act, the State shall submit the following, in duplicate, to the appropriate Bureau of Land Management office (43 CFR part 1821):

(a) A plan of development that includes:

(1) A report on the economic feasibility of the project and the availability of an adequate supply of water to thoroughly irrigate and reclaim the lands to raise ordinary agricultural crops.

(2) Procedures for avoiding or mitigating adverse environmental impacts and for rehabilitation of the lands if all or part of the project fails.

(3) A map in sufficient detail to show the proposed major irrigation works and the lands to be irrigated. Map material and dimensions shall be as prescribed by the authorized officer and shall be drawn to a scale not greater than 1,000 feet to 1 inch. The map shall connect canals, pipelines larger than 8 inches in diameter, reservoirs and other major facilities in relationship to public survey lines or corners, where present. The map shall show other data as needed to enable retracement of the proposed major irrigation works on the ground. The engineer who prepared the map shall certify that the system depicted therein is accurately and fully represented and that the system proposed is sufficient to fully reclaim the lands.

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(4) Additional data concerning the specifics of the plan and its feasibility as required by the authorized officer.

(b) A grant contract in a form prescribed by the Director, Bureau of Land Management, in duplicate, signed by the authorized State official, shall also be filed. A carbon copy of the contract shall not be accepted. The person who signs the contract on behalf of the State shall furnish evidence of his/her authority to do so. The contract shall obligate the State to all terms and conditions of the Act and all specifications of the approved plan, and shall obligate the United States to issue patents to the State upon actual reclamation of the lands according to the plan or to settlers who are its assignees, as provided in subpart 2093 of this title.

### **§ 2611.1-4 Approval of plan and contract.**

(a) After making a determination that the proposed project is economically feasible, that sufficient water can be furnished to thoroughly irrigate and reclaim the lands, that measures to avoid or mitigate adverse environmental impacts and to rehabilitate the lands if the project fails are adequate, and that State laws and regulations concerning the disposal of the lands to actual settlers are not contrary to the provisions and restrictions of the Act, the authorized officer may approve the plan. Before making this determination and approving the plan, the authorized officer may, in agreement with the State, modify the plan.

(b) Upon approval of the plan, the grant contract may be signed by the Secretary of the Interior, or an officer in the Office of the Secretary who has been appointed by the President, by and with the advice and consent of the Senate. A notice that the contract has been signed and the lands are segregated shall be published in the FEDERAL REGISTER. As a condition to entering into the contract, the Secretary or his delegate may require additional terms and conditions. If such is done, the new contract form shall be returned to the State for signing.

(c) The contract is not final and binding until approved by the President.

(d) After the plan has been approved, and the contract signed and approved,